

BOARD BILL #157 INTRODUCED BY ALDERWOMAN YOUNG

AN ORDINANCE AMENDING ORDINANCE NO. 66675 ADOPTED BY THE BOARD OF ALDERMEN ON FEBRUARY 28, 2005; AUTHORIZING THE EXECUTION OF AN AMENDMENT TO REDEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY AND 1007/1015 WASHINGTON, LLC; PRESCRIBING THE FORM AND DETAILS OF SAID AMENDMENT; MAKING CERTAIN FINDINGS WITH RESPECT THERETO; AUTHORIZING OTHER RELATED ACTIONS; AND CONTAINING A SEVERABILILTY CLAUSE.

WHEREAS, pursuant to Ordinance No. 66558, the City designated a portion of the City a Redevelopment Area and approved the Washington East Condominiums TIF Redevelopment Plan (the “Redevelopment Plan”) and the Redevelopment Project, all as described therein; and

WHEREAS, pursuant to Ordinance No. 66558, the City adopted tax increment allocation financing within the Redevelopment Area, and established the Special Allocation Fund for the Redevelopment Project, all as provided for and in accordance with the TIF Act and described therein; and

WHEREAS, pursuant to Ordinance No. 66675, the City authorized the execution of a TIF Redevelopment Agreement (the “Redevelopment Agreement”) between the City and 1007/1015 Washington, LLC, among others (the “Developer”), in furtherance of the Redevelopment Plan, with such Redevelopment Agreement to be in the form attached thereto; and

WHEREAS, the Redevelopment Agreement was subsequently executed by the City and Developer, as provided in and in accordance with Ordinance No. 66675, which Redevelopment Agreement is dated as of December 18, 2006; and

WHEREAS, Section 3.3 of the Redevelopment Agreement, as authorized by the City, provides that the Developer shall submit a Certificate of Substantial Completion to the City, in substantially the same form as Exhibit E attached thereto; as those terms are defined therein, not

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1 later than December 31, 2007 absent any event of force majeure and not later than July 1, 2008
2 in the event of a delay caused by an event of force majeure; and

3 **WHEREAS**, it is hereby found and determined that it is necessary and advisable and in the
4 best interest of the City and of its inhabitants to authorize the City to execute an Amendment to the
5 Redevelopment Agreement, in order to amend the Redevelopment Agreement as it concerns the
6 date by which the Developer must submit a Certificate of Substantial Completion to the City and
7 the form of Certificate of Substantial Completion attached thereto as Exhibit E; and

8 **WHEREAS**, the Board of Aldermen hereby determines that the terms of the Amendment
9 to Redevelopment Agreement attached as **Exhibit A** hereto and incorporated herein by reference
10 are acceptable and that the execution, delivery and performance by the City and Developer of the
11 attached Amendment to Redevelopment Agreement is necessary and desirable and in the best
12 interests of the City and the health, safety, morals and welfare of its residents, and in accord with
13 the public purposes specified in the TIF Act.

14 **BE IT ORDAINED BY THE CITY OF ST. LOUIS AS FOLLOWS:**

15 **SECTION ONE.** The Board of Aldermen hereby approves, and the Mayor and
16 Comptroller of the City are hereby authorized and directed to execute, on behalf of the City, the
17 Amendment to Redevelopment Agreement by and between the City and the Developer attached
18 hereto as **Exhibit A**, and the City Register is hereby authorized and directed to attest to the
19 Amendment to Redevelopment Agreement and to affix the seal of the City thereto. The
20 Amendment to Redevelopment Agreement shall be in substantially the form attached, with such
21 changes therein as shall be approved by said Mayor and Comptroller executing the same and as
22 may be consistent with the intent of this Ordinance and necessary and appropriate in order to
23 carry out the matters herein authorized.

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1 **SECTION TWO.** The Mayor and Comptroller of the City or their designated
2 representatives are hereby authorized and directed to take any and all actions to execute and
3 deliver for and on behalf of the City any and all additional certificates, documents, agreements or
4 other instruments as may be necessary and appropriate in order to carry out the matters herein
5 authorized, with no such further action of the Board of Aldermen necessary to authorize such
6 action by the Mayor and the Comptroller or their designated representatives.

7 **SECTION THREE.** The Mayor and the Comptroller or their designated representatives,
8 with the advice and concurrence of the City Counselor and after approval by the Board of
9 Estimate and Apportionment, are hereby further authorized and directed to make any changes to
10 the documents, agreements and instruments approved and authorized by this Ordinance as may
11 be consistent with the intent of this Ordinance and necessary and appropriate in order to carry out
12 the matters herein authorized, with no such further action of the Board of Aldermen necessary to
13 authorize such changes by the Mayor and the Comptroller or their designated representatives.

14 **SECTION FOUR.** It is hereby declared to be the intention of the Board of Aldermen
15 that each and every part, section and subsection of this Ordinance shall be separate and severable
16 from each and every other part, section and subsection hereof and that the Board of Aldermen
17 intends to adopt each said part, section and subsection separately and independently of any other
18 part, section and subsection. In the event that any part, section or subsection of this Ordinance
19 shall be determined to be or to have been unlawful or unconstitutional, the remaining parts,
20 sections and subsections shall be and remain in full force and effect, unless the court making
21 such finding shall determine that the valid portions standing alone are incomplete and are
22 incapable of being executed in accord with the legislative intent.

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EXHIBIT A

Amendment to Redevelopment Agreement

Space Above for Recorder's Use Only

DOCUMENT COVER SHEET

TITLE OF DOCUMENT: Amendment to Redevelopment Agreement

DATE OF DOCUMENT: _____, 2008

GRANTOR(S): City of St. Louis
1200 Market Street
St. Louis, MO 63103

GRANTEE(S): 1007/1015 Washington, LLC
906 Olive Street, Suite 600
St. Louis, MO 63101

LEGAL DESCRIPTION: See Attached Exhibit A

REF. BOOK & PAGE: N/A

After recording please return to:
Husch Blackwell Sanders LLP
190 Carondelet Plaza, Suite 600
St. Louis, MO 63105
Attn: Matthew D. Guymon
(314) 480-1762

AMENDMENT TO REDEVELOPMENT AGREEMENT

This Amendment to Redevelopment Agreement (“**Amendment**”) is made this __ day of _____, 2008 by and between the CITY OF ST. LOUIS, MISSOURI (“**City**”), a city and political subdivision duly organized and existing under its charter and the Constitution and laws of the State of Missouri, and 1007/1015 WASHINGTON, LLC, a Missouri limited liability company (the “**Dorsa Developer**”), among others. Capitalized terms used in this Amendment which are defined in the Agreement (as defined herein) shall have the same meanings as defined therein, unless otherwise defined herein.

RECITALS

A. The City is a party to that certain Redevelopment Agreement (“**Agreement**”) dated as of December 18, 2006 by and between the City and Dorsa Developer, among others, for redevelopment of a portion of the City of St. Louis in accordance with that certain Washington East Condominiums TIF Redevelopment Plan and, as approved and authorized by the City of St. Louis, Missouri pursuant to Ordinance Nos. 66558 and 66675; and

B. Section 3.3 of the Agreement did provide that the Dorsa Developer shall submit Certificates of Substantial Completion to the City for the Dorsa Project Phase, in substantially the same form as Exhibit E attached thereto, absent any event of force majeure, not later than December 31, 2007, and, alternatively Section 7.5 of the Agreement provided that in the event of a delay caused by an event of force majeure the Dorsa Developer shall submit Certificates of Substantial Completion to the City by not later than July 1, 2008, as such terms are defined in the Agreement; and

C. Due to certain circumstances, additional time beyond that provided in the Agreement is required to submit the Certificates of Substantial Completion related to the Dorsa Project Phase, and the City acknowledges that it is in the best interests of the City and its residents for the general health, safety, morals and public welfare to provide Dorsa Developer additional time within which to fulfill its obligation and to amend the form of Certificate of Substantial Completion attached to the Agreement as Exhibit E.

AGREEMENT

NOW, THEREFORE, in consideration of the above premises and of the mutual promises and covenants set forth herein, the parties hereby agree as follows:

1. Developer to Construct the Work. With respect to the Dorsa Project Phase, Section 3.3 of the Agreement is hereby amended to extend the date by which the Dorsa Developer must submit Certificates of Substantial Completion to the City from December 31, 2007 to December 31, 2008.

2. Form of Certificate of Substantial Completion. With respect to the Dorsa Project Phase, Exhibit E of the Agreement is hereby amended in its entirety and replaced with Exhibit B attached to this Amendment.

3. This Amendment shall be construed and enforced in accordance with the laws of the State of Missouri and shall be binding upon and shall inure to the benefit of the successors and assigns of the parties hereto.

3. No provision of this Amendment may be amended or modified, except by an instrument in writing signed by the parties.

4. Unless otherwise defined herein, any capitalized terms in this Amendment shall have the meanings provided in the Agreement.

5. This Amendment may be executed in multiple counterparts.

[Signature Page to Follow.]

IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the date first above written.

“CITY”

CITY OF ST. LOUIS, MISSOURI

By: _____
Francis G. Slay, Mayor

By: _____
Darlene Green, Comptroller

[SEAL]

Attest:

Parrie May, City Register

Approved as to Form:

Patricia Hageman, City Counselor

STATE OF MISSOURI)
) SS.
CITY OF ST. LOUIS)

On this ____ day of _____, 2008, before me appeared Francis G. Slay, to me personally known, who, being by me duly sworn, did say that he is the Mayor of the CITY OF ST. LOUIS, MISSOURI, a political subdivision of the State of Missouri, and that the seal affixed to the foregoing instrument is the seal of said City, and said instrument was signed and sealed in behalf of said City by authority of its Board of Aldermen, and said individual acknowledged said instrument to be the free act and deed of said City.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the City and State aforesaid, the day and year first above written.

Notary Public

[SEAL]

My Commission Expires:

STATE OF MISSOURI)
) SS.
CITY OF ST. LOUIS)

On this _____ day of _____, 2008, before me appeared Darlene Green, to me personally known, who, being by me duly sworn, did say that she is the Comptroller of the CITY OF ST. LOUIS, MISSOURI, a political subdivision of the State of Missouri, and that the seal affixed to the foregoing instrument is the seal of said City, and said instrument was signed and sealed in behalf of said City by authority of its Board of Aldermen, and said individual acknowledged said instrument to be the free act and deed of said City.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the City and State aforesaid, the day and year first above written.

Notary Public

[SEAL]

My Commission Expires:

DEVELOPER

1007/1015 WASHINGTON, LLC, a Missouri
limited liability company

By: _____

Name: _____

Its: _____

STATE OF MISSOURI)

) **SS.**

CITY OF ST. LOUIS)

On this _____ day of _____, 2008, before me appeared _____, to me personally known, who being by me duly sworn did say that he is the _____ of 1007/1015 Washington, LLC, a Missouri limited liability company, and that said instrument was signed and sealed in behalf of said company by authority of its Members, and he acknowledged said instrument to be the free act and deed of said company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal in the City and State aforesaid, the day and year first above written.

Notary Public

My Commission Expires:

EXHIBIT A

Legal Description of the Redevelopment Area

Dorsa Sub-Area

A parcel of ground in Block 178 of the City of St. Louis, described as: Beginning at a point in the North line of Washington Avenue 86 feet West of the West line of Tenth Street; thence West along the North line of Washington Avenue 60 feet 1 inch; thence North and parallel with the West line of Tenth Street and along a line lying in a party wall 130 feet 3-1/4 inches; thence East and parallel with the North line of Washington Avenue 5 feet; thence North and parallel with the West line of Tenth Street 20 feet; thence East and parallel with the North line of Washington Avenue 55 feet 1 inch; thence South and parallel with the West line of Tenth Street and along a line lying partly in a party wall 130 feet 3-1/4 inches to the North line of Washington Avenue and the point of beginning. (1007 Washington Avenue); and

A Lot of ground in Block 178 of the City of St. Louis, beginning at a point in the North line of Washington Avenue distant 60 feet East of the East line of 11th Street; thence running Northwardly parallel to said East line of 11th Street 151 feet, more or less, to the South line of United States Survey 1508; thence East on said Survey line 6 feet 3 inches to the southeast corner of a strip of ground conveyed to Adolph Lopez and Theresa Lopez recorded in Book 1599 page 251; thence North along said Lopez East line and the East line of property conveyed to Mary L. Harbaugh by deed recorded in Book 1584 page 506, 75 feet to the South line of Lucas Avenue; thence East along the South line of Lucas Avenue 84 feet 9 inches, more or less, to the West line of property, formerly owned by Edward Martin; thence South on said Martin's West line 75 feet to the South line of said Survey 1508; thence West on said Survey line 21 feet, more or less, to a point; thence South 18 feet 5-1/2 inches, more or less, to the Northeast corner of a strip of ground conveyed to Washington University's of deed recorded in Book 1523 page 130; thence West along said Washington University's North line 5 feet to the Northwest corner of property conveyed to Washington University; thence Southwardly along the West line of said property of Washington University; 131 feet 9-1/2 inches, more or less, to the North line of Washington Avenue; thence Westwardly along the North line of Washington Avenue 65 feet to the place of beginning. (1015 Washington Ave.); and

A parcel of ground in Block 178 of the City of St. Louis, described as: Fronting 20 feet 1 inch on the South line of Lucas Avenue by a depth Southwardly between parallel lines of 75 feet; bounded East by a line 100 feet West of and parallel with the West line of Tenth Street and West by a line lying in a party wall, according to survey by Joyce Surveying Company on October 11th, 1947. (1008 Lucas Avenue); and

A portion of Lucas Avenue bounded on the West by the Western boundary at its intersection with Lucas Avenue of the parcel described as A Lot of ground in Block 178 of the City of St. Louis, beginning at a point in the North line of Washington Avenue distant 60 feet East of the East line of 11th Street; thence running Northwardly parallel to said East line of 11th Street 151 feet, more or less, to the South line of United States Survey 1508; thence East on said Survey line 6 feet 3 inches to the southeast corner of a strip of ground conveyed to Adolph Lopez and Theresa Lopez recorded in Book 1599 page 251; thence North along said Lopez East line and the East line of property conveyed to Mary L. Harbaugh by deed recorded in Book 1584 page 506, 75 feet to the South line of Lucas Avenue; thence East along the South line of Lucas Avenue 84 feet 9 inches, more or less, to the West line of property, formerly owned by Edward Martin; thence South on said Martin's West line 75 feet to the South line of said Survey 1508; thence West on said Survey line 21 feet, more or less, to a point; thence South 18 feet 5-1/2 inches, more or less, to the Northeast corner of a strip of ground conveyed to Washington University's of deed recorded in Book 1523 page 130; thence West along said Washington University's North line 5 feet to the Northwest corner of property conveyed to Washington University; thence Southwardly along the West line of said property of Washington University; 131 feet 9-1/2 inches, more or less, to the North line of Washington Avenue; thence Westwardly along the North line of Washington Avenue 65 feet to the place of beginning, and bounded on the East by the Eastern boundary of the parcel described as A lot in Block One Hundred Seventy-three (173) of the City of St. Louis, fronting One Hundred (100) feet on the North line of Washington Avenue by a depth Northwardly between parallel lines of Two Hundred Twenty-five (225) feet four 4 inches, more or less, to the South line of Lucas Avenue; bounded on the East by Ninth Street.

EXHIBIT B

EXHIBIT E

FORM OF CERTIFICATE OF SUBSTANTIAL COMPLETION

CERTIFICATE OF SUBSTANTIAL COMPLETION

The undersigned, _____, a Missouri limited liability company (the "*Developer*"), pursuant to that certain Redevelopment Agreement dated as of December 18, 2006, between the City of St. Louis, Missouri (the "*City*"), and the Developer (the "*Agreement*"), hereby certifies to the City as follows:

1. That as of _____, _____, the construction of the Dorsa Project Phase of the Redevelopment Project (as those terms are defined in the Agreement) has been substantially completed in accordance with the Agreement.

2. That the Work has been substantially completed or funded pursuant to Exhibit B-__ to the Agreement.

3. The Work has been performed in a workmanlike manner and substantially in accordance with the Construction Plans (as those terms are defined in the Agreement).

4. This Certificate of Substantial Completion is accompanied by the project architect's or owner representative's certificate of substantial completion on AIA Form G-704 (or the substantial equivalent thereof), a copy of which is attached hereto as **Appendix A** and incorporated herein by reference, certifying that the _____ Phase of the Redevelopment Project has been substantially completed in accordance with the Agreement, or alternatively, Certificates of Occupancy and Zoning have been issued for at least ninety percent (90%) of the units for the Dorsa Project Phase.

5. Lien waivers for applicable portions of the Work in excess of Five Thousand Dollars (\$5,000) have been obtained.

6. This Certificate of Substantial Completion is being issued by the Developer to the St. Louis Development Corporation and the City in accordance with the Agreement to evidence the Developer's satisfaction of all material obligations and covenants with respect to the Dorsa Project Phase of the Redevelopment Project.

7. The acceptance (below) or the failure of the St. Louis Development Corporation and the Mayor or his designee to object in writing to this Certificate within thirty (30) days of the date of delivery of this Certificate to the St. Louis Development Corporation and the City (which written objection, if any, must be delivered to the Developer prior to the end of such thirty (30) days) shall evidence the satisfaction of the Developer's agreements and covenants to perform the Work.

Upon such acceptance by the St. Louis Development Corporation and the Mayor or his designee, the Developer may record this Certificate in the office of the City's Recorder of Deeds. This Certificate is given without prejudice to any rights against third parties which exist as of the date hereof or which may subsequently come into being. Terms not otherwise defined herein shall have the meaning ascribed to such terms in the Agreement.

IN WITNESS WHEREOF, the undersigned has hereunto set his/her hand this _____ day of _____, 20__.

1007/1015 WASHINGTON, LLC
a Missouri limited liability Company

By: _____
Name: _____
Title: _____

ACCEPTED:

ST. LOUIS DEVELOPMENT CORPORATION

By: _____
Name: _____
Title: _____

CITY OF ST. LOUIS, MISSOURI

By: _____
Name: _____
Title: _____